

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

<p>CAPITAL BEVERAGE CORPORATION,</p> <hr/> <p>Plaintiff,</p> <p>-against-</p> <p>OAK BEVERAGES, INC., VICTORIA BEVERAGE, INC; and DEALY & SILBERSTEIN, LLP (solely in its capacity as Escrow Agent),</p> <hr/> <p>Defendants.</p> <hr/>	<p>x</p> <p>:</p> <p>:</p> <p>:</p> <p>:</p> <p>x</p>	<p>Index No. 07 CIV. 6063</p> <p><u>ANSWER TO CROSSCLAIM</u></p>
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Dealy & Silberstein, LLP, ("D & S" and/or "Escrow Agent"), for its answer to the "Answer, Counterclaim and Cross-claim" of the Defendants, Oak Beverages, Inc. and Victoria Beverage, Inc. ("Oak Defendants"), respectfully alleges as follows:

1. D & S is sued herein as a nominal defendant because D & S was designated as the "escrow agent" pursuant to an Escrow Agreement dated December 16, 2005 ("Escrow Agreement") related to an Asset Purchase Agreement (the "APA") between the parties.
2. Apparently, the dispute between Capital Beverage Corporation ("Capital") and the Oak Defendants, in this case arises over the interpretation of the APA.
3. As the Escrow Agent, D & S continues to hold the money in escrow in D & S's escrow account at JP Morgan Chase and it is the intention of D & S to continue holding the money in escrow until there is a written settlement of this action approved by the Court or a direction of the Court to D & S. D & S will abide by any such written Stipulation and Order and/or a direction of this Court.

WHEREFORE, D & S requests that D & S shall be relieved of all liability and/or responsibility in any written Stipulation or Order of this Court which ultimately decides the

dispute between the parties.

Dated: New York, New York
August 9, 2007

DEALY & SIEBERSTEIN, LLP

By: 

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